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ABSTRACT

This report analyzes problems in a proposal, submitted by Secretary of Education William J. Bennett, for Federal legislation to convert the Existing Chapter 1 program of the Education Consolidation and Improvement Act, which provides remedial educational services to disadvantaged students, into a tuition voucher program. The report, which is organized in outline form, makes 8 major points: (1) The voucher bill is objectionable on philosophical grounds. (2) Poor parents would not really have the choice of schools the voucher advocates claim. (3) The voucher bill would negatively affect Chapter 1, a program that is currently working well. (4) The bill would irresponsibly offer public funds without demanding public accountability; (5) The voucher program will be an administrative nightmare. (6) The bill could have a negative effect on civil rights and desegregation. (7) The bill raises serious constitutional problems, such as the separation of church and state and the tuition tax credit issue. (8) The voucher would be a $3.2 billion experiment based on inadequate and inconclusive evidence. (KH)

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PROBLEMS WITH THE ADMINISTRATION'S VOUCHER PROPOSAL FOR CHAPTER 1

PREPARED FOR THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

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INTRODUCTION

On November 13, 1985, Secretary of Education William J. Bennett transmitted to Congress a legislative proposal entitled, "The Equity and Choice Act." Subsequently introduced as H.R. 3821 in the House of Representatives, this proposal would convert the existing Chapter 1 program of the Education Consolidation and Improvement Act, which provides remedial educational services to disadvantaged students, into a tuition voucher program.

Because of the attention this bill has received and the numerous questions it has raised, I have authorized printing of this Committee staff report which discusses the various problems inherent in this voucher proposal.

Augustus F. Hawkins
Chairman

THE ADMINISTRATION VOUCHER PLAN: PROBLEMS, QUESTIONS, CONCERNS

On November 13, 1985, Secretary of Education William J. Bennett sent to Congress a bill to convert the existing Chapter 1 program for the education of disadvantaged children into a "voucher" program. This proposal was subsequently introduced in the House as H.R. 3821 by Congressman Patrick L. Swindall. The bill would require local school districts to take the Federal Chapter 1 funds which they now receive to provide special remedial services to low-achieving children in poor areas and instead give those funds in the form of a voucher to the parents of these children, at the parents' request. The voucher would then be used by the parents toward the tuition of a private school or the cost of another public school. For several reasons, the bill represents a deception for parents and a disaster for public policy.

I. The Voucher Bill is Objectionable on Philosophical Grounds.

A. THE VOUCHER PLAN WOULD HARM PUBLIC EDUCATION BY TRANSFERRING PUBLIC MONEY TO PRIVATE SCHOOLS AT A TIME WHEN FEDERAL RESOURCES FOR EDUCATION ARE SHRINKING.

--This "anti public education" bias is consistent with President Reagan's efforts to eliminate the Federal role in public education by cutting funds and proposing block grants and phase-outs of education programs.

--Even assuming that the voucher bill would double the percentage of the student population attending private schools to 20%, we would still need a strong public educational system for that remaining 80%. Universal public education came about because a haphazard assemblage of private and community schools was unequally able to prepare children for their roles as citizens; the voucher bill ignores this history.

--If the Administration were truly committed to quality in education, it would be increasing funding for public schools to improve them, not bribing people to abandon them.

B. THE VOUCHER BILL IS BASED ON THE UNFOUNDED ASSUMPTION THAT "ANYTHING IS BETTER" THAN THE CURRENT SYSTEM.

--The bill assumes that private schools, without being required to do so, will do a better job serving disadvantaged students than public schools have done with mandates to serve such students.

--It also implies that disadvantaged students would receive a better education in the "regular" program of the private school than in a special program in a public school.

C. THE VOUCHER BILL IS BASED ON A CONSUMER ECONOMICS, MARKET PLACE MODEL THAT IS NOT APPROPRIATE TO EDUCATION.

--Assuming that fostering competition will, by definition, improve education ignores the reality that some services or institutions are not responsive to market place forces, but are better provided on a large scale by government. Imagine issuing vouchers for defense on the assumption that everyone could hire his own militia.

--A consumer choice such as purchasing a washing machine does not have the lasting effect on both the consumer and society at large as is the case with education.

--The "healthy rivalry" between public and private institutions that the Administration envisions will occur under the voucher bill is really an unfair match in which one competitor -- the private school -- does not have to play by the same rules as the other. The private schools do not have to enroll all students who desire and and do not have to meet the accountability standards required of public schools.

D. AIDING POOR PARENTS IS NOT THE ADMINISTRATION'S PRIMARY GOAL.

--The Chapter 1 voucher is just a way station en route to the "voucherization" of all education. As Undersecretary Gary Bauer stated, this bill is a "first step" toward a more extensive voucher plan that would award all parents vouchers. "We had to start somewhere," he said.

--The Administration espouses the rhetoric of parental involvement even as it has consistently sought to and often succeeded in eliminating requirements for parental involvement in existing Federal programs.* If the Administration officials were truly concerned about

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*For example, the 1981 Education Consolidation and Improvement Act, which was enacted as part of the Administration-initiated Omnibus Budget Reconciliation Act and which converted the Title I program into Chapter 1, repealed the Title I requirement for parental advisory councils in districts and school buildings, substituting a less specific requirement that programs be implemented in consultation with parents and teachers of Chapter 1 children.

parental involvement, they would strengthen the parent provisions in existing laws and regulations instead of wiping them out.

--The parents receiving vouchers would not all be poor. Once funds flow to the poorest schools, children are selected for participation in Chapter 1 based on educational deprivation, not income.

E. VOUCHERS IGNORE OTHER BENEFITS OF PUBLIC EDUCATION.

--The goals of exposing students to a common culture, preparing them for citizenship, providing equal opportunity, and offering education in the best interests of the child will not be better served by a voucher system.

--For example, if parents under a voucher plan selected schools with pupils whose backgrounds are the same as their children's, the result could be more stratification and less tolerance rather than the greater diversity the Administration claims.

II. Poor Parents Would Not Really Have the Choice of Schools the Voucher Advocates Claim.

A. THE VOUCHER AMOUNT DOES NOT COVER ENOUGH OF THE COSTS OF PRIVATE EDUCATION TO GIVE THE POOREST FAMILIES A MEANINGFUL CHOICE.

--The average private school tuition of $1,480 in fall of 1983 (the last year for which data is available) is only 38% of the $563 expended per pupil under Chapter 1 in the school year 1983-84, according to the Congressional Research Service in the Library of Congress.* Where are poor parents, with little to no disposable income, to obtain the other 62%?

--There is a tremendous range of expenses; the National Association of Independent Schools reports that in school year 1985-86, median tuition of its member institutions ranges from $3,300 to $4,400 for grades K through 6 and is $5,300 for secondary schools. These schools would be out of the question for voucher parents.

*The Administration estimates the Chapter 1 per pupil expenditure for school year 1983-84 at $650, using the unorthodox method of averaging the State averages and giving greater weight to small States, rather than the more accepted method of dividing the national number of partipants by the national appropriation, which yields the number cited above.

--The voucher amount would vary widely from State to State, and this would unfairly constrain choices. A voucher of $280 in California would hardly make a dent in the tuition of the average private school.

--LEAs could decide to pay no transportation costs under the bill, which would make certain schools even more out of range for poor parents.

--The schools that charge tuition closer to the average voucher amount of $600 are largely parochial schools. Many parents may not want to send their children to a parochial school where they will be taught a religion different from their own.

--The costs for educating disadvantaged children are often higher than average, so private schools would have to subsidize costs beyond their tuition charges, which they may be unwilling to do.

--There is nothing to prevent a religious school receiving a voucher from charging higher tuition to non-church members. This may make sense for the church but is not equitable public policy.

--The average per pupil expenditure for public schools was $3,429 in school year 1984-85, according to the National Education Association's estimates of school statistics. Many public school districts charge tuition to non-resident students, so the voucher would be inadequate to cover this amount.

B. PARENTAL CHOICES WILL BE CONSTRAINED BY A NUMBER OF OTHER FACTORS.

--The 69% of the eligible children who are not receiving services under Chapter 1 would have no voucher choice at all, because the funding is inadequate to serve all poor or low-achieving children.

--Selective admissions requirements would keep disadvantaged students out of some the best private schools. Enrolling low-achieving children would be counter-productive for private schools whose drawing cards are selectivity and high-achievement scores.

--Private schools are not evenly distributed across geographic regions. Some areas have few private schools, or the ones that exist are too far away to transport children to.

--The bill offers no protection for students who enroll in a private school and are later expelled or dismissed.

--The option in the bill to transfer to another public school has numerous limitations. Transfer to another school within the district is subject to the LEA permitting such transfers. Transfer to a public school in another district would not be a viable option if the receiving LEA prohibits such transfers or charges a high tuition for non-resident students.

C. PARENTS' CHOICES WILL BE LIMITED BY THE TYPES OF INFORMATION THEY RECEIVE ABOUT THEIR OPTIONS.

--As the Alum Rock, California, experiment on vouchers demonstrated, even in its fourth year, one-quarter of the parents still did not know that the voucher program existed, and many more lacked accurate information about it.

--Over half of the poor families in the country are headed by a person without a high school diploma. These educationally disadvantaged parents will need assistance and special information to make informed choices.

--Many poor parents may have limited English proficiency. Some school districts have a multiplicity of language groups in their attendance areas, and information would have to be provided in every language if these parents are to be well-informed about their choices.

--The voucher bill provides only that LEAs inform parents in writing of voucher options and hold an annual public meeting. The information needed for school selection is too complex and varied to be adequately communicated in this fashion to disadvantaged parents.

--Parents may be taken advantage of by profiteers and choose a school with the most aggressive promoter instead of the best program.

D. PARENTS OFTEN CHOOSE SCHOOLS FOR REASONS OTHER THAN THE INSTRUCTIONAL PROGRAM.

--In the Alum Rock experiment, parents primarily used non-educational criteria to decide on schools. Even with the provision of transportation, geographic location was the most important factor.

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III. The Voucher Bill Would Negatively Affect Chapter 1

A. VOUCHERS WOULD NEEDLESSLY OVERHAUL A PROGRAM THAT IS CURRENTLY WORKING WELL.

--Nothing could be more erroneous than the Administration's implicit assumption in the voucher bill that Chapter 1 has not been successful and is in need of major surgery.

--Research shows that Chapter 1 is one of our most successful educational programs. The program is reaching its intended beneficiaries and resulting in higher than average achievement gains for disadvantaged children who would otherwise be falling farther behind.

--Former Secretary of Education Terrel Bell said of Chapter 1, "The effectiveness of it is well-demonstrated."

B. VOUCHERS WOULD FURTHER CUT THE NUMBER OF STUDENTS BEING SERVED UNDER CHAPTER 1.

--Chapter 1 is already serving several hundred thousand fewer children than five years ago, due to Administration budget cuts. Department of Education data shows that participation dropped from 5.4 million in school year 1979-80 to 4.7 million in 1982-83. Participation in 1983-84 (the last year for which State figures are available) stands at 4.8 million.

--Currently, we are serving only 31% of the children in need, according to a Congressional Research Service analysis of achievement data from the Sustaining Effects Study, a national Chapter 1 evaluation.*

--Even fewer students would be served with vouchers because the bill would result in increased adminstrative responsibilities and costs. If, as Secretary Bennett states, the voucher bill will not increase Federal funding for Chapter 1, these administrative costs will have to be covered by reducing services to children or decreasing the number served to an even greater extent.

--The problem could become self-perpetuating if children exit the public schools with vouchers. As fewer children are served in a Chapter 1 program in a public school, the per pupil costs are likely to rise, and the number of participants will have to be further reduced to offset rising costs.

*This figure is derived by defining program eligibles as children below the 35th achievement percentile.

--Parents who wish to send their children to private schools may pressure the local educational agency (LEA) to increase the voucher to a more meaningful amount and further cut the number of children served.

C. THE VOUCHER BILL WOULD DESTROY THE VERY FEATURES OF CHAPTER 1 THAT HAVE CONTRIBUTED TO ITS SUCCESS.

--The voucher proposal would dissipate the procedures that have been established over the years to ensure Chapter 1's effectiveness, such as its focus on supplementary, compensatory services. Private schools would not have to comply with these requirements.

--The voucher bill would dismantle the concept of concentrating services in the neediest schools by shifting funds from public schools with high concentrations of poor children to private or other public schools that have few such children.

--With fewer children and fewer dollars, the public school may no longer be able to offer a Chapter 1 program of sufficient size, scope, and quality for those students who remain. These factors have been keys to Chapter 1's success.

D. THE VOUCHER BILL IS ANOTHER IN A LONG LINE OF ADMINISTRATION ATTEMPTS TO DISMANTLE CHAPTER 1.

--In a bill submitted to Congress in April, 1981, the Administration advocated combining the Title I program (the predecessor to Chapter 1) and the Education of the Handicapped Act into a single block grant.

--President Reagan has requested a cut for Chapter 1 in every one of his budgets except fiscal year 1985, when he requested a freeze. For instance, in fiscal year 1983, he requested a 33% cut in Chapter 1.

IV. The Voucher Bill Would Irresponsibly Offer Public Funds Without Demanding Public Accountability.

A. THE BILL WOULD UNFAIRLY EXEMPT PRIVATE SCHOOLS RECEIVING VOUCHERS FROM THE REQUIREMENTS GOVERNING PUBLIC SCHOOL CHAPTER 1 PROGRAMS.

--The private schools would not be required to provide a Chapter 1 program -- or any special services-- to the voucher students. They could use the funds to redecorate the principal's office if they wanted.

--Private schools would not have to evaluate or report disadvantaged students' progress and achievement as public schools do, so it would be impossible to verify if the program is accomplishing its objectives.

--Private schools would be relieved of the non-supplanting requirement affecting public schools, so parochial schools could use the voucher funds to supplant funds they now receive from the church.

--Private schools would be exempted from maintenance of effort, comparability, and other requirements longstanding in the Chapter 1 law to ensure the supplementary nature and integrity of the Federal program.

--Private schools would not have to comply with certain general provisions tied to the receipt of Federal aid that affect public schools, including certain civil rights laws, the Buckley Amendment affecting privacy of student records, or even the Hatch Amendment affecting student psychological testing.

--If handicapped children are eligible for Chapter 1, the private schools receiving vouchers would not have to meet the Federal requirements to provide free and appropriate education to these children, as public schools do.

B. THE BILL LEAVES PRIVATE SCHOOLS ESSENTIALLY AUTONOMOUS, WITH NO ENTITY CHARGED WITH MONITORING THE QUALITY OF THEIR PROGRAMS.

--Private schools in some States do not even have to provide a core curriculum or meet State standards regarding teacher certification, building codes, safety, etc. State Courts in Ohio and Kentucky have struck down State requirements regulating private schools in this manner.

--The bill offers no protection for parents from "fly by night" schools that spring up to take advantage of Federal dollars. As Assistant Secretary Finn stated in a 1983 paper co-authored with Denis Doyle, competition could "produce charlatans, deceptive advertising or chronic instability."

--The bill defines a private "eligible educational institution" as one "which provides a full-time program of elementary or secondary education" and meets certain non-discrimination provisions, but contains no further clarification of what a full-time educational program includes.

--There is no recourse for parents if a school falsely advertises services it does not deliver or if a school receives the money and then closes. The Swindall bill contains no complaint procedures for dissatisfied parents.

C. IT IS INEVITABLE THAT GREATER REGULATION OF PRIVATE SCHOOLS WILL FOLLOW THE SUBSIDY.

--The public's concern that tax dollars be wisely spent and the parents' concern that their children receive a quality education will surely lead to pressure to increase accountability and regulation of the private schools.

--As Congressman Swindall said in his introductory statement on the bill, "with Federal dollars come [sic] Federal control."

--Other countries, such as the Netherlands, that provide substantial public assistance to nonpublic schools enforce a relatively high degree of government regulation of these schools, according to a Congressional Research Service paper on vouchers.

--If regulation occurs, the independence and special character that makes private education attractive to some individuals would be lost. As researcher K. Alan Snyder commented in an analysis of a Canadian program of public aid to nonpublic schools, "No longer did the private schools seem special in any way. They became clones of the public schools."

--If the LEAs, the States, or the U.S. Department of Education failed to develop regulatory assurances and accountability standards, it is inescapable that the courts would, when disgruntled parents brought suit against schools that misuse or abuse Federal dollars.

V. The Voucher Program Will Be an Administrative Nightmare.

A. THE LEAS' ADMINISTRATIVE RESPONSIBILITIES WOULD INCREASE SEVERAL-FOLD.

--The LEAs would become responsible for such duties as ensuring that vouchers are properly used, recovering misused payments, verifying that the private schools have a full-time program and do not discriminate, making contacts with undecided parents, and other auditing, bill-collecting, and enforcement activities.

--The responsibility of ensuring parents use the funds only for the purposes authorized would go far beyond the monitoring of individual behavior required of LEAs by any existing Federal education program. Schools already report some problems simply verifying parental income in programs such as school lunch. Short of hiring teams of investigators, how could an LEA, especially in a large, urban area, be reasonably expected to enforce such a provision?

B. INCREASED ADMINISTRATIVE COSTS WOULD EAT UP FUNDS NOW USED FOR CHAPTER 1 SERVICES.

--The new administrative responsibilities will entail greater administrative costs.

--If the parents urge the LEA to provide transportation to implement the voucher options, these costs could be enormous and would have to come off the top of the Chapter 1 program, leaving less for public schools.

--Paperwork could be extensive, as administrators attempt to make determinations about which students will be staying and leaving. An issuing and redemption authority would be needed.

C. VOUCHERS WOULD THROW LOCAL PLANNING AND BUDGETING INTO DISARRAY.

--Superintendents and school boards would have difficulty determining their budgets and making decisions about teacher contracts in the spring because they would have no control over how many children will be in the program from year to year.

--Vouchers would damage teacher morale, as uncertainty increases over how many teachers will need to be hired for the public school program.

D. ANNUAL CHANGES IN THE ELIGIBILITY OF CHILDREN FOR VOUCHERS WOULD RESULT IN CAPRICIOUS ATTENDANCE PATTERNS.

--Eligibility for the voucher is determined the same way as Chapter 1 eligibility, which means it is dependent on a number of changing factors. Consequently, it would not be uncommon for students to attend private schools for a few years under a voucher and then be required to return to the public schools when their Chapter 1 eligibility runs out.

--For example, Chapter 1 requires that within a designated Chapter 1 school, the program serve those children who are most in need according to achievement measures and related factors. Thus, a student could receive a voucher to attend a private school for a period of time and then no longer be eligible, if his achievement increased to the point that he was no longer among those most in need.

--LEAs generally do not receive enough funds to offer Chapter 1 programs at every grade. Thus, when a student reaches a grade level beyond which the district does not provide Chapter 1 services, he would no longer receive a voucher.

--According to the Sustaining Effects Study of Chapter 1, there is an annual turnover of 40% in the students served by Chapter 1. This is due to such factors as students "graduating out" of the program, students being promoted to unserved grade levels, new students moving into the attendance area, and students being cut from the program due to budget decreases.

VI. The Voucher Bill Could Have a Negative Effect on Civil Rights and Desegregation.

A. THE BILL DOES NOT PROHIBIT DISCRIMINATION BY PRIVATE SCHOOLS ON THE BASIS OF SEX, HANDICAPPING CONDITION, OR RELIGION.

--The provision in the bill stating that the voucher does not constitute Federal aid could be construed as an attempt to exempt private schools from the civil rights requirements that are now tied to receipt of Federal aid by public institutions, including Title IX (prohibiting sex discrimination) and Section 504 (prohibiting handicapped discrimination).

B. THE BILL DOES NOT CONTAIN ADEQUATE PROTECTIONS AGAINST RACIAL DISCRIMINATION.

--The annual, uncontrollable movement of students among schools could wreak havoc on desegregation plans.

--The bill gives the Attorney General unprecedented and exclusive authority to make determinations about whether a school has a racially discriminatory policy and thereby prevents interested parties from seeking a declaratory judgment regarding the discrimination policy of a voucher school. Apparently, only the Attorney General may take such action, and if he does not, no one else can seek judicial relief.

--According to a legal analysis by Americans United for Separation of Church and State, there is some question whether the bill's anti-discrimination language covers faculty hiring policy.

--The Administration claims the bill would promote voluntary desegregation; just the opposite could occur. The voucher could encourage "white flight" of the 45% of the children in the program who are white, according to Department of Education statistics. These white parents could use the voucher to send their children to a private school with few minorities, leaving the public schools less desegregated. If minority parents send their children to a private school, it may improve the diversity of that particular private school (which is not affected by court or voluntary desegregation plans) but have a negative impact on the racial balance of the public schools, which may be under obligation to desegregate.

VII. The Bill Raises Serious Constitutional Problems.

A. VOUCHERS WOULD STILL MEAN ENTANGLEMENT WITH RELIGIOUS SCHOOL AUTHORITIES.

--LEAs would be consulting with private schools about their programs, tuition, and anti-discrimination policies and would be making administrative arrangements for transfer of the vouchers.

--Because the voucher funds go into the general operating budget of private schools, the Federal funds could subsidize religious instruction and thereby have the effect of promoting religion under the Court's test.

--The redemption of the voucher for Federal funds by the private schools would create a direct dollar pipeline from the Federal government to the private schools.

B. VOUCHERS ARE NOT COMPARABLE TO TUITION TAX CREDITS OR EXISTING CONSTITUTIONAL METHODS OF AIDING PRIVATE SCHOOL STUDENTS.

--A tax credit is "redeemed" by the parent and ultimately ends up in the parent's pocket. The voucher funds would be redeemed by the private school and ultimately end up in that school's coffers.

--Under the current Chapter 1 program, the public schools retain control of the Federal funds and use them to provide services to private schoolchildren. Under the voucher, the public schools would not control the funds that go into the private schools.

VIII. The Voucher Would Be a $3.2 Billion Experiment Based on Inadequate and Inconclusive Evidence.

A. THE CONCEPT HAS NOT BEEN ADEQUATELY TESTED.

--Congressman Swindall conceded in his introductory statement that the voucher idea "certainly has not been widely tested."

--Testimony by Assistant Secretary Chester Finn conceded that, "There is little empirical evidence based on studies in the American context about some of the most widely discussed choice mechanisms. This is not surprising because, for the most part, these mechanisms have not been tried."

B. THE AVAILABLE RESEARCH SHOWS NO CONCLUSIVE EVIDENCE THAT VOUCHERS HAVE A BENEFICIAL EDUCATIONAL EFFECT AND REVEALED MANY PROBLEMS.

--As Assistant Secretary Finn summarized the Alum Rock experiment: "When parents actively chose a school, their children did not score higher (or lower) on reading-achievement tests as a result of the choice."

-The voucher experiment conducted by the Rand Corporation at Alum Rock, California, demonstrated (1) that the parents who used the vouchers were more socially advantaged; (2) that there was no evidence vouchers resulted in improved educational or social outcomes; (3) that parents primarily used non-instructional factors such as ethnic makeup and proximity to home to decide which school their children should attend; and (4) after four years, one fourth of the parents still did not know the voucher program existed, and many more lacked accurate information about it. Most interestingly, the researchers concluded (5) that the voucher program had "reams and reams of rules and regulations."

C. THE PRECEDENTS CITED BY THE ADMINISTRATION ARE NOT COMPARABLE.

--For example, the private school subsidy situation in Vermont cited as precedent applies only to non-sectarian private schools and arose because of a unique situation in very sparsely populated areas where the private schools preceded the public schools and where creating a public school for a very small number of children was inefficient.

--To cite another example, comparing vouchers to higher education student aid ignores the court cases which treat higher education church and State issues differently.